

7. To remedy the infringement alleged in these proceedings, the Italian authorities declared, first, that they wished to extend from three to 12 months the period in which the application may be made and then that they intended to abolish it.
8. In addition, they published in the Official Gazette of the Italian Republic a communication informing potentially interested persons that, pending abolition of the period in question, for the purposes of ensuring consumer protection applications may be made to the Guarantee Fund at any time.
9. The Commission considers that such measures, while a laudable attempt to make good the consequences of the infringement complained of, do not do enough to eliminate the risk that purchasers of package travel may be deprived of their right to effective protection in the event of the organiser's insolvency.
10. For the purpose of fully ensuring legal certainty, so enabling individuals to know the full extent of their rights and to rely on them before the courts, the provisions of a directive must be given effect with unquestionable force, precision and clarity and not by means of mere administrative practices which, by their nature, are alterable at will by the national authorities.
11. The coexistence, in the Italian legal order, of a provision, never formally repealed, prescribing a period of three months beyond which the introduction of an application for the Fund to take action will not be valid, on the one hand, and an administrative communication inviting the public to take no notice of that time-limit, on the other, clearly creates a situation of uncertainty for purchasers of package travel.

⁽¹⁾ Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (OJ 1990 L 158, p. 59).

Reference for a preliminary ruling from the Simvoulío tis Epikratias (Greece) lodged on 2 April 2009 — Enosi Efopliston Aktoploias, ANEK, Minoikes Grammes, N.E. Lesvou and Blue Star Ferries v Ipourgós Emporikis Naftilias and Ipourgós Aigaiou

(Case C-122/09)

(2009/C 141/52)

Language of the case: Greek

Referring court

Simvoulío tis Epikratias

Parties to the main proceedings

Claimants: Enosi Efopliston Aktoploias, ANEK, Minoikes Grammes, N.E. Lesvou and Blue Star Ferries

Defendants: Ipourgós Emporikis Naftilias and Ipourgós Aigaiou

Questions referred

- (a) In accordance with the second paragraph of Article 10 and the second paragraph of Article 249 of the Treaty estab-

lishing the European Community: (i) was the Greek legislature obliged, for the duration of the temporary exemption until 1 January 2004 from the implementation of Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ 1992 L 364, p. 7) which was introduced by Article 6(3) of that regulation and relates to Greece, to refrain from adopting provisions liable seriously to compromise the full and effective application of the regulation in Greece from 1 January 2004 onwards; (ii) are individuals entitled to rely on that regulation to contest the validity of provisions adopted by the Greek legislature before 1 January 2004 in the event that those national provisions seriously compromise the full and effective application of the regulation in Greece from 1 January 2004?

- (b) If the first question referred for a preliminary ruling is answered in the affirmative, is the full application from 1 January 2004 of Regulation No 3577/92 in Greece seriously compromised by reason of the adoption by the Greek legislature, before 1 January 2004, of provisions which are exhaustive and permanent in nature, do not lay down that they cease to have force from 1 January 2004 and are contrary to provisions of that regulation?

- (c) If the answers to the first two questions referred for a preliminary ruling are in the affirmative, do Articles 1, 2, and 4 of Regulation (EEC) No 3577/92 permit the adoption of national rules under which shipowners may provide maritime cabotage services only on specific operational routes determined each year by a national authority competent for that purpose and after first obtaining an administrative licence granted under an authorisation scheme having the following characteristics: (i) it relates to all operational routes, without exception, which serve islands, and (ii) the competent national authorities may approve an application submitted for the grant of a licence to operate a service by unilaterally amending, in the exercise of their discretion and without prior definition by a rule of law of the criteria applied, the elements of the application which relate to the frequency and the period of interruption of the service and to the fare tariff?

- (d) If the answers to the first two questions referred for a preliminary ruling are in the affirmative, is a restriction on the freedom to provide services that is impermissible for the purposes of Article 49 of the Treaty establishing the European Community introduced by national legislation which provides that a shipowner to whom the administration has granted a licence to operate a ship on a specified route (either after his application in that regard has been approved as it stands, or after it has been approved with amendments to certain of its elements, which he accepts) is in principle obliged to work the particular operational route continuously for the entire duration of the annual operational period, and that to secure compliance with this obligation imposed on him he must deposit, before the operational service commences, a letter of guarantee all or part of whose amount will be forfeited if the obligation in question is not complied with or not complied with precisely?